

## Nays—9

Aikin	Metcalf
Beck	Smith
Formby	Sulak
Lemens	Van Zandt
Mauritz	

## Absent—Excused

Graves	Spears
Hazlewood	Winfield
Hill	

The Senate, accordingly, at 1:00 o'clock p. m., adjourned until 10:00 o'clock a. m., Tuesday, June 24, 1941.

## EIGHTY-FIRST DAY

(Tuesday, June 24, 1941)

The Senate met at 10:00 o'clock a. m., pursuant to adjournment, and was called to order by President Stevenson.

The roll was called, and the following Senators were present:

Aikin	Lovelady
Beck	Martin
Brownlee	Mauritz
Chadick	Metcalf
Cotten	Moffett
Fain	Moore
Formby	Ramsey
Graves	Stone
Hazlewood	Sulak
Hill	Van Zandt
Isbell	Vick
Kelley	Weinent
Lanning	Winfield
Lemens	York

## Absent—Excused

Shivers	Spears
Smith	

A quorum was announced present.

Rev. S. B. Culpepper, Chaplain, offered the invocation.

On motion of Senator Aikin and by unanimous consent, the reading of the Journal of the proceedings of Friday, June 20, 1941 was dispensed with and the Journal was approved.

## Leaves of Absence Granted

Senator Spears was granted leave of absence for today on account of important business, on motion of Senator Graves.

Senator Smith was granted leave of absence for today and the remainder of the week on account of important business, on motion of Senator Brownlee.

Senator Shivers was granted leave of absence for today on account of important business, on motion of Senator Moore.

## Veto of Senate Bill 5

The President laid before the Senate and had read the following message from the Governor:

Austin, Texas,  
June 23, 1941.

To the Senate of the Forty-seventh Legislature:

I return to you without my signature S. B. No. 5, generally known as the ad valorem tax remission bill. I have declined to sign this bill for several reasons. I believe it is unsound government policy to remit these ad valorem taxes to the counties to spend. If we believe that the counties need more money to spend, and if we do not want to place more taxes on the ad valorem tax payers, then the proper method to accomplish this would be to grant the additional taxing authority to the counties and at the same time make a corresponding reduction in the constitutional authority to levy State ad valorem taxes.

If the counties are going to spend this ad valorem tax money, then the citizens of those counties should have an opportunity to vote on whether or not they want the tax levied.

Everybody knows that I have always contended that too much of the cost of State and local government is coming from the ad valorem tax payers, but if we remit these ad valorem taxes to the counties we will be certain then that they will never be abolished. What we need is some plan which will relieve the ad valorem tax payer.

Another reason I have refused to approve this bill lies in the fact that under the present existing conditions, and in light of the appropriations which this Legislature is making, I do not believe it wise to take this

money out of the State Treasury at this time unless provision is made at the same time to replace the revenue with some other form of taxes.

I realize that in the past, grave emergencies have arisen in certain counties and each of these emergencies have been carefully considered by the Legislature as individual cases. This bill includes all such counties which have not heretofore had their taxes remitted. It seems to be based on the theory of equality, meaning that if some counties have "emergencies," all counties are entitled to have "emergencies."

I am of the opinion that to remit State ad valorem taxes to any county is a bad thing for the taxpayers of such county because it is a process of positively increasing the taxes of the taxpayers of that county. In this process the State ad valorem taxes which are remitted to the counties must be replaced by additional taxes levied on the citizens of Texas which include, of course, the citizens of such county. It is a process whereby the county spending officials spend the money without the voters or their county having opportunity to vote on it.

I am strongly in favor of abolishing all State ad valorem taxes because this would be a relief to the ad valorem tax payers, and after abolishing State ad valorem taxes then let the tax payers of each county do their own voting on how much they want to tax themselves to raise money for their own county spending officials to spend. To adopt this method instead of the method provided in S. B. No. 5, would really place the taxpayers in the counties affected at a distinct advantage over the taxpayers in the counties that have previously had their State ad valorem taxes remitted to the counties. Just because some counties have had calamities and the taxpayers of such counties have had double taxes foisted upon them by the process of tax remission and without having the opportunity to vote on the matter is no reason why the taxpayers in all other counties in this State should be likewise penalized and double taxed without the opportunity of voting on the question.

Respectfully submitted,

W. LEE O'DANIEL,  
Governor of Texas.

(President Pro Tempore Cotten in the Chair.)

### Message from the House

A Clerk of the House was recognized by the President Pro Tempore to present the following message:

Hall of the House of Representatives,  
Austin, Texas,  
June 24, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills and resolutions:

H. B. No. 1087, A bill to be entitled "An Act to amend H. B. No. 930, of the Forty-seventh Legislature by adding thereto a new Section to follow Section 1 thereof, and to be known as Section 1a, to provide that any unexpended balance in the sums of money appropriated to the Adjutant General's Department in H. B. No. 930, for the purposes stated, on hand August 31, 1941, are appropriated to the Adjutant General's Department for the purposes stated in H. B. No. 930 for the two year period beginning September 1, 1941, and ending August 31, 1943; and declaring an emergency."

H. B. No. 1092, A bill to be entitled "An Act authorizing the annexation of streets, highways, and alleys by the governing bodies of certain cities and towns; prescribing the method for such annexation; and declaring an emergency."

H. C. R. No. 247, Granting H. S. Middlemiss permission to bring suit against the State of Texas.

H. C. R. No. 269, Instructing the Enrolling Clerk to make certain corrections in H. B. No. 524.

Respectfully submitted,

E. R. LINDLEY,  
Chief Clerk, House of Representatives.

### Senate Joint Resolution 22 on First Reading

The following resolution was introduced, read first time and referred to the Committee on Constitutional amendments:

By Senator Ramsey:

S. J. R. No. 22, Proposing an amendment to Section 3, Article 24 of the Constitution by providing for a Regular Session of the Legislature, providing for mileage and per diem of the Members of the Legislature; fixing the time for an election therefor; prescribing the form of ballot; providing for

proclamation of such election and the advertisement thereof; and making an appropriation therefor.

#### Senate Concurrent Resolution 85

Senator Fain offered the following resolution:

S. C. R. No. 85, Authorizing J. P. McKenzie to sue the State.

Whereas, On or about November 24, 1940, the spillway in the Huntsville State Park dam broke, thereby releasing great quantities of water; and

Whereas, The releasing of said waters into a creek below the dam caused the creek to overflow across the land owned by J. P. McKenzie, thereby seriously damaging said land in respect to its value and for farm purposes, and drowning live stock owned by the said J. P. McKenzie; and

Whereas, The said J. P. McKenzie has never been compensated for the damage and injury to his property and livestock aforesaid; now, therefore, be it

Resolved by the Senate of the State of Texas, the House of Representatives concurring, That the said J. P. McKenzie, his heirs, executors, and administrators be and they are hereby granted permission to bring suit against the State of Texas and the State Parks Board in a court of competent jurisdiction in Walker County, Texas, in order to ascertain, fix and award the amount of money, if any, the said J. P. McKenzie, his heirs, executors and administrators are entitled to receive from the State of Texas and the State Parks Board as compensation for the injury and damage to his property and livestock by reason of the overflow of waters caused by the breaking of the aforesaid dam; and that in case suit be filed, service of citation or other necessary process therein shall be upon the Attorney General of Texas, and such service shall have the same force and effect as service in civil cases in the manner prescribed by law; and any judgment that may be finally established against the State of Texas and the State Parks Board, if any, shall be and constitute a liquidated debt; and, be it further

Resolved, That the sole purpose of this resolution is to grant permission to said J. P. McKenzie, his heirs, executors, and administrators to bring suit against the State of Texas and the State Parks Board for the above

alleged cause of action, and no statement made herein shall be construed as an admission of fact by the State of Texas or the State Parks Board.

The resolution was read and was referred to the Committee on State Affairs.

#### Message from the Governor

The President Pro Tempore laid before the Senate and had read the following message from the Governor:

June 24, 1941.

To the Senate of the Forty-seventh Legislature:

I ask the advice, consent and confirmation of the Senate to the following appointment:

To be a member of the Library and Historical Commission to fill the unexpired term of Miss Emma K. Burleson, deceased, term to expire September 28, 1943:

Mrs. H. Y. Benedict of Austin, Travis County.

Respectfully submitted,

W. LEE O'DANIEL,  
Governor of Texas.

The message was referred to the Committee on Nominations of the Governor.

#### Motion to Pass Senate Bill 5 Over Governor's Veto

Senator Mauritz moved that the Senate reconsider S. B. No. 5 and that it be passed by the Senate notwithstanding its veto by the Governor and the Governor's objections thereto.

Senator Mauritz asked that the motion be spread upon the Journal.

#### Concurrence in House Amendments to Senate Bill 486

Senator Kelley called S. B. No. 486 from the President's table for consideration of the House amendments to the bill.

The President Pro Tempore laid the bill and House amendments before the Senate.

Question—Shall the Senate concur in the House amendments?

The Senate concurred in the House amendments by the following vote:

Yeas—21

Aikin	Chadick
Beck	Fain
Brownlee	Formby

Graves	Mauritz
Hazlewood	Metcalf
Hill	Stone
Kelley	Sulak
Lanning	Van Zandt
Lemens	Winfield
Lovelady	York
Martin	

Nays—4

Cotten	Ramsey
Moore	Weinert

Absent

Moffett	Vick
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Absent—Excused

Shivers	Smith
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Paired

Senator Isbell (present), who would vote "nay" with Senator Spears (absent), who would vote "yea."

#### Message from the House

A Clerk of the House was recognized by the President Pro Tempore to present the following message:

Hall of the House of Representatives,  
Austin, Texas,  
June 24, 1941.

Hon. Coke R. Stevenson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following resolution:

S. C. R. No. 82, Relative to the State Health Officer making application to the Federal Works agency for funds to provide a building for sanitary needs, etc.

The House has concurred in Senate amendments to H. C. R. No. 242 by a viva voce vote.

The House has adopted the Conference Committee report on H. B. No. 1082 by a vote of 101 ayes, 6 noes.

The House refused to concur in Senate amendments to H. B. No. 1061 and has requested the appointment of a Conference Committee to consider the differences between the two Houses and appoints: Messrs. Ridgeway, Stinson, Brown, Hoyo, and McGlasson.

The House has concurred in Senate amendments to H. B. No. 268 by a vote of 80 yeas, 35 noes.

Respectfully submitted,

E. R. LINDLEY,  
Chief Clerk, House of Representatives.

#### House Bills on First Reading

The following bills received from the House today, were laid before the Senate, read severally first time, and referred to the committees indicated:

H. B. No. 1087, to Committee on Finance.

H. B. No. 1092, to Committee on Towns and City Corporations.

#### Differences on Senate Bill 471 Referred to Conference Committee

Senator Brownlee moved that a new Conference Committee be requested to adjust the differences between the two Houses on S. B. No. 471.

Senator Mauritz moved as a substitute that the differences between the two Houses on the bill be rereferred to the same Conference Committee previously appointed to adjust the differences.

The substitute motion prevailed.

The motion as substituted prevailed.

Accordingly, the differences between the two Houses on the bill were re-referred to the Conference Committee previously appointed on the bill.

#### Message from the Governor

The President Pro Tempore laid before the Senate and had read the following message from the Governor:

June 24, 1941.

To the Members of the Forty-seventh Legislature:

On May 26th I sent a message to the Legislature which read as follows:

"An emergency has arisen which will prevent the State of Texas from receiving Federal matching funds for old age assistance after July 1, 1941, unless proper action is taken by the Legislature immediately.

"The Federal Social Security Act was amended in 1939 making it necessary that the State agency in determining need shall take into consideration all income and resources of individuals claiming old age assistance; this provision of the Federal law becomes effective July 1, 1941. Representatives of the Social Security Board have informed officials of the State Department of Public Welfare that the present Texas law will not conform to the Federal law after July 1, 1941, and that legislative action must be taken to insure the con-

tinuance of Federal funds after that date. H. B. No. 611, recently passed by the House of Representatives, does, in the opinion of the officials of the State Department of Public Welfare, meet the provisions of the Federal law that go into effect on July 1, if all House amendments are eliminated. It is believed that if the law is changed as provided for in H. B. No. 611, the State Department will be able to make a liberal interpretation of the law which will mean a more liberal program and will at the same time insure the continuance of Federal matching funds for old age assistance in Texas.

"The State Department of Public Welfare must apply thirty days in advance in requesting the approval of Federal funds for old age assistance. This means that the request for the quarter beginning July 1 must be made to the Federal authorities on June 1, which is only one week from this date. It is therefore very urgent that H. B. No. 611, now in the Senate, be considered as emergency legislation, and should receive your quick attention.

"The fact that the amendments to the Federal law take effect on July 1 makes it necessary that the passage of any Act without making it effective at once will be too late to insure Federal matching funds for old age assistance for the month of July, 1941; therefore, I respectfully submit H. B. No. 611, as passed by the House as emergency legislation, and request your earliest consideration."

To date this bill still has not reached my desk, and again I am urging that this bill receive your immediate attention, and respectfully request its early passage in order that our State will not face the possibility of having Federal funds denied it because of the failure of our law-making body to pass corrective legislation.

Respectfully submitted,

W. LEE O'DANIEL,  
Governor of Texas.

Conference Committee on  
House Bill 166

Senator Lemens called up from the President's table, for consideration at this time, the request of the House for a Conference Committee on H. B. No. 166.

Senator Lemens moved that the request of the House be granted.

The motion prevailed.

Accordingly, the President appointed the following conferees on the bill on the part of the Senate: Senators Lemens, Brownlee, Fain, Smith and Winfield.

Report of Conference Committee on  
House Bill 166

Senator Lemens submitted the following report:

Austin, Texas,  
June 24, 1941.

Hon. Coke R. Stevenson, President of the Senate;

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sirs: We, your Conference Committee, appointed to adjust the differences between the two Houses on H. B. No. 166, have met and beg leave to recommend that H. B. No. 166 be passed in the form hereto attached.

Respectfully submitted,

LEMENS,  
BROWNLEE,  
FAIN,  
SMITH,  
WINFIELD,

On the part of the Senate;

KINARD,  
BULLOCK,  
LOCK,  
JONES,  
CARLTON,

On the part of the House.

H. B. No. 166, A bill to be entitled "An Act amending Article 4556, Chapter 10, Title 71 of the Revised Civil Statutes of Texas, 1925, as amended, and Articles 4557, 4558, 4559, 4561, 4562, 4563, 4564, 4565, 4565-a, Chapter 10, Title 71 of the Revised Civil Statutes of Texas, 1925, as amended, and amending Chapter 5, Title 12 of the Penal Code of Texas by amending Article 736 so as to provide for a State Board of Examiners in Optometry; providing for qualifications for and method of filling vacancies on said Board; providing for election of officers and meetings of the Board; prescribing powers and duties of the Board; requiring all persons desiring to practice optometry in Texas to pass an examination; requiring all persons to record optometry licenses; providing subjects for and method of giving examination; providing grounds for refusal of and cancellation of licenses; prescribing examination fee and renewal fee and method of obtaining

duplicate licenses; defining terms; specifying Acts constituting penal offenses and providing penalty therefor; repealing Article 4566-1, Chapter 10, Title 71 of the Revised Civil Statutes of Texas, 1925, as amended; repealing all laws and parts of laws in conflict with this Act and declaring that the remainder of the Act shall not be affected by the unconstitutionality of any part thereof; and declaring an emergency."

Be It Enacted by the Legislature of the State of Texas:

Section 1. That Article 4556, Chapter 10, Title 71 of the Revised Civil Statutes of Texas, 1925, be amended so as to hereafter read as follows:

"Article 4556. The Board shall preserve a record of its proceedings in a book kept for that purpose. A record shall be kept showing the name, age, residence and mailing address of each applicant for examination, the name and location of the School of Optometry from which he holds credentials, and the time devoted to the study and practice of optometry, together with such information as the Board may desire to record. Said record shall also show whether applicants were registered or licensed, and shall be prima facie evidence of all matters therein contained. Every license and annual renewal certificate shall be numbered and recorded in a book kept by the Secretary of the Board. The Board shall have the power to make such rules and regulations, not inconsistent with this law, as may be necessary for the performance of its duties, the regulation of the practice of optometry and the enforcement of this Act. The Board shall have power to appoint committees from its own membership, the duties of which committees shall be to consider such matters pertaining to the enforcement of this Act and the regulations promulgated in accordance therewith as shall be referred to said committees, and they shall make recommendations to the Board with respect thereto. The Board shall have the power to employ the services of stenographers, investigation's counsel, an executive secretary, inspectors and other necessary assistants in carrying out the provisions of this Act. The Board may be represented by the Attorney General and by the county and district attorneys of the State and counsel employed by the Board. The Board, any committee or any member thereof shall have the power to issue sub-

poenas and subpoenas duces tecum to compel the attendance of witnesses and the production of books, records and documents and to administer oaths and to take testimony concerning all matters within its or his jurisdiction. The Board shall not be bound by strict rules of procedure or by laws of evidence in conduct of its proceedings, but the determination shall be founded upon sufficient legal evidence to sustain it. The Board shall have the right to institute an action in its own name to enjoin the violation of any of the provisions of this Act. Said action for injunction shall be in addition to any other action, proceeding or remedy authorized by law. Before entering upon the discharge of the duties of his office, the Secretary-Treasurer of the Board shall give such bond for the performance of his duties as the Board may require, the premium of which is to be paid by funds in possession of the Board. The Board shall adopt an official seal and license of suitable design and shall maintain an office where all of the permanent records shall be kept.

Sec. 2. That Article 4557, Chapter 10, Title 71 of the Revised Civil Statutes of Texas, 1925, be amended so as to hereafter read as follows:

"Article 4557. Every person desiring to practice optometry in the State of Texas shall be required to pass the examination given by the Texas State Board of Examiners in Optometry. The applicant shall make application, furnishing to the Secretary of the Board on forms to be furnished by the Board satisfactory sworn evidence that he has attained the age of twenty-one (21) years, is of good moral character, is a citizen of the United States, and has at least graduated from a first grade high school, or has a preliminary education equivalent to permit him to matriculate in the University of Texas, and that he has attended and graduated from a reputable University or College of Optometry which meets with the requirements of the Board, and such other information as the Board may deem necessary for the enforcement of this Act. A university or School of Optometry is reputable whose entrance requirements and course of instruction are as high as those adopted by the better class of Universities and Schools of Optometry, and whose courses of instruction shall be the equivalent of not less than four terms of eight months each, and

approved by the Board. Provided that no provision of this Section shall apply to any qualified person who in good faith began the study of optometry and so filed his intention with the Texas State Board of Examiners in Optometry under the provisions of Title 71, Chapter 10 of the Revised Civil Statutes of Texas, 1925, as amended, prior to the effective date of this Act. Any person failing to register with the Secretary of the Board within thirty days after the effective date of this Act under proper rules of the Board and other related facts as the Board may require shall be deemed to have waived all rights under the provisions of Title 71, Chapter 10, Article 4557, Revised Civil Statutes of Texas, 1925, as amended."

Sec. 3. That Article 4558, Chapter 10, Title 71 of the Revised Civil Statutes of Texas, 1925, be amended so as to hereafter read as follows:

"Article 4558. The examination shall consist of written, oral or practical tests in practical, theoretical and physiological optics, and theoretical and practical optometry, and in the anatomy, physiology and pathology of the eye, as applied to optometry, and in such other subjects as may be regularly taught in recognized standard optometric schools or universities."

Sec. 4. That Article 4559, Chapter 10, Title 71 of the Revised Civil Statutes, 1925, be amended so as to hereafter read as follows:

"Article 4559. Each applicant shall be given due notice of the date and place of examination. All examinations shall be conducted in writing and by such other means as the Board shall determine adequate to ascertain the qualifications of applicants, and in such manner as shall be entirely fair and impartial to all applicants. All applicants examined at the same time shall be given the same written examinations. Every applicant successfully passing the examination and meeting all requirements of the Board shall be registered by the Board as possessing the qualifications required by this law, and shall receive from said Board a license to practice optometry in this State."

Sec. 5. That Article 4561, Chapter 10, Title 71 of the Revised Civil Statutes of Texas, 1925 be amended so as to hereafter read as follows:

"Article 4561. It shall be unlawful for any person to practice optometry within the limits of this State who

has not registered and recorded his license in the office of the county clerk of the county in which he resides, and in each county in which he practices, together with his age, post office address, place of birth, subscribed and verified by his oath. The fact of such oath and record shall be endorsed by the county clerk upon the license. The absence of record of such license in the office of the county clerk shall be prima facie evidence of the lack of the possession of such license to practice optometry."

Sec. 6. That Article 4562, Chapter 10, Title 71 of the Revised Civil Statutes of Texas, 1925, be amended so as to hereafter read as follows:

"Article 4562. Each county clerk in this State shall purchase a book of suitable size, to be known as the 'Optometry Register' of such county, and set apart at least one full page for the registration of each optometrist, and record in said optometry register the name and record of each optometrist who possesses for record a license or certificate issued by the State Board of Examiners in Optometry. The county clerk shall receive One (\$1.00) Dollar for each document registered, as provided in this Act, which shall be his full compensation for all duties herein required. When an optometrist shall have his license revoked, suspended or cancelled, said county clerk, upon being notified by the Board, shall make a note of the fact beneath the record in the optometry register, which entry shall close the record and be prima facie evidence of the fact that the license has been so cancelled, suspended or revoked. The county clerk of each county shall, upon the request of the Secretary of the Board, certify to the Board of Examiners a correct list of the Optometrists then registered in the county, together with such other information as the Board may require."

Sec. 7. That Article 4563, Chapter 10, Title 71 of the Revised Civil Statutes of Texas, 1925, be amended so as to hereafter read as follows:

"Article 4563. The Texas State Board of Examiners may, in its discretion, refuse to issue a license to any applicant and may cancel, revoke or suspend the operation of any license by it granted for any of the following reasons:

(a) That said applicant or licensee is guilty of gross immorality:



(b) That said applicant or licensee is guilty of any fraud, deceit or misrepresentation in the practice of optometry, or in his seeking admission to such practice;

(c) That said applicant or licensee is unfit or incompetent by reason of negligence;

(d) That said applicant or licensee has been convicted of a felony or a misdemeanor which involves moral turpitude;

(e) That said applicant or licensee is an habitual drunkard or is addicted to the use of morphine, cocaine or other drugs having similar effect, or has become insane or has been adjudged by a court of competent jurisdiction to be of unsound mind;

(f) That said licensee has directly or indirectly employed, hired, procured, or induced a person not licensed to practice optometry in this State, to so practice;

(g) That said licensee, directly or indirectly, aids or abets in the practice of optometry any person not duly licensed to practice under this Act;

(h) That said licensee, directly or indirectly, employs solicitors, canvassers or agents for the purpose of obtaining patronage;

(i) That said licensee lends, leases, rents or in any other manner places his license at the disposal of or in the service of any person not licensed to practice optometry in this State;

(j) That said applicant or licensee has willfully or repeatedly violated any of the provisions of this Act;

(k) That said licensee has split fees derived from professional services;

(l) That said licensee professes by any means to perform his services in a superior manner, or implies, directly or indirectly, to the public professional superiority;

(m) That said licensee advertises prices or indulges in false or untrue advertising of a character which would tend to mislead the public;

(n) That said licensee practices or holds himself out to practice optometry under any name other than his own proper name, as is set forth in his license, or is employed by an unlicensed person; provided, however, that this shall not prevent two or more persons duly licensed under this Act from practicing optometry in the same office as associates in their own name, as stated in the individual licenses issued to them.

"Proceedings under this Article shall be begun by filing charges with the Board in writing and under oath. Said charges may be made by any person or persons. The President of the Board shall fix a time and place for a hearing and shall cause a copy of the charges, together with a notice of the time and place fixed for the hearing, to be served on the respondent or his counsel at least ten (10) days prior thereto. When personal service cannot be effected, the Board shall cause to be published once a week for two (2) successive weeks a notice of the hearing in a newspaper published in the county wherein the respondent was last known to practice, and shall mail a copy of the charges and of such notice to the respondent at his last known address. When publication of the notice is necessary, the date of hearing shall not be less than ten (10) days after the last date of the publication of the notice. At said hearing the respondent shall have the right to appear either personally or by counsel, or both, to produce witnesses and evidence on his behalf, to cross-examine witnesses and to have subpoenas issued by the Board. The Board shall thereupon determine the charges upon their merits.

"Any person whose license to practice optometry has been refused or has been revoked or suspended by the Board, may, within twenty (20) days after the making and entering of such order take an appeal to any of the district courts of the county of his residence, but the decision of the Board shall not be stayed or enjoined except upon application to such district court after notice to the Board.

"Upon application, the Board may reissue a license to practice optometry to a person whose license has been revoked, but such application shall not be made prior to one (1) year after the revocation and shall be made in such manner and form as the Board may require.

"Provided, however, that nothing in this law shall be construed to prevent the administrator or executor of the estate of a deceased optometrist from employing a licensed optometrist to carry on the practice of such deceased during the administration of such estate, nor to prevent a licensed optometrist from working for such person during the administration of the estate when the legal representa-



tive thereof has been authorized by the county judge to continue the operation of such practice.

"The term 'Texas State Board of Examiners' as used in this Act shall mean the Texas State Board of Examiners in Optometry.

Sec. 8. That Article 4564, Chapter 10, Title 71 of the Revised Civil Statutes of Texas, 1925, be amended so as to hereafter read as follows:

"Article 4564. Every person practicing optometry in this State shall display his license or certificate in a conspicuous place in the office where he practices optometry, and whenever required exhibit such license or certificate to said Board, or its authorized representative."

Sec. 9. That Article 4565, Chapter 10, Title 71 of the Revised Civil Statutes of Texas, 1925, be amended so as to hereafter read as follows:

"Article 4565. The Board shall charge a fee of Fifty Dollars for examining an applicant for license, which fee must accompany the application. If the applicant who, because of failure to pass the examination, be refused a license, he shall be permitted to take a second examination without additional fee, provided the second examination is taken within a period of two (2) years. The fee for issuing a license shall be Ten Dollars to be paid to the Secretary of the Board. If anyone successfully passing the examination and meeting the requirements of the Board has not paid the fee for issuance of a license within ninety (90) days after having been notified by registered mail at the address given on his examination papers, or at the time of examination, that he is eligible for same, such person shall by his own act have waived his right to obtain his license, and the Board may at its discretion refuse to issue such license until such person has taken and successfully passed another examination. The fund realized from all fees payable under this Act shall first be applied to the payment of all necessary expenses of the Board, and the remainder shall be applied by order of the Board to compensate members of said Board. Said compensation to each member of the Board shall not exceed Ten (\$10.00) Dollars per day, exclusive of allowable expenses, except the Secretary-Treasurer shall receive additional compensation as set by the Board for the performance of such additional duties

as Secretary-Treasurer. The Board shall defray all expenses of administration and enforcement of this law from fees provided for in this Act, and no appropriation shall ever be made from the State Treasury for any expenditure made necessary by this law.

Sec. 10. That Article 4565-a, Chapter 10, Title 71 of the Revised Civil Statutes of Texas, 1925, be amended so as to hereafter read as follows:

"Article 4565-a. On or before the first day of January of each year, every licensed optometrist in this State shall pay to the Secretary-Treasurer of the Texas State Board of Examiners in Optometry an annual renewal fee of Ten (\$10.00) Dollars for the renewal of his license to practice optometry for the current year. On receipt of said renewal fee, the Board shall issue an annual renewal certificate bearing the number of his license, the year for which renewed, and such other information for the records of the Board as said Board may deem necessary. When an optometrist shall fail to pay his annual renewal fee by March 1 of each year, it shall be the duty of the Board to notify such optometrist by registered mail at his last known address, that his license has been suspended. The Board shall notify the county clerk of the county in which such license may have been recorded of such suspension, and such clerk, upon receipt of notice from the Secretary of the Board, shall enter upon the optometry register of such county the fact that such license has been suspended for non-payment of annual renewal fees, and shall notify the Board in writing that such entry has been made. Provided, that if said annual renewal fee is not paid within ten (10) days of the notice of suspension, the Board shall then cancel such license. The Board shall notify the county clerk in the county in which such license may have been recorded of such suspension, and such clerk, upon receipt of such notice from said board, shall enter upon the optometry register of such county the fact that such license has been cancelled and is void for nonpayment of annual renewal fee, and shall notify the Board in writing that such entry has been made. Practicing optometry without an annual renewal certificate, as provided herein, shall have the same force and effect, and be subject to all penalties

of practicing optometry without a license. After the Board has declared a license void, as provided for in this Article, the Board may thereafter, in its discretion, refuse to issue a new license until such optometrist whose license has been declared void for non-payment of annual renewal fee has passed the regular examination for license as provided for by this Act. If any license issued under this law shall be lost or destroyed, the holder of said license shall make an affidavit of its loss or destruction, and that he is the same person to whom such license was issued, and such other information as may be desired by the Board, and shall, upon payment of a fee of Two Dollars, Fifty Cents (\$2.50) be granted a license under this law. The Board may exercise its discretion in granting such duplicate licenses.

Sec. 11. That Article 736, Chapter 5, Title 12 of the Penal Code of Texas be amended so as to hereafter read as follows:

"Article 736. Every person practicing optometry in this State shall display his license or certificate in a conspicuous place in the office where he practices optometry, and whenever required exhibit such license or certificate to said Board, or to its authorized representative.

"Provided that anyone who owns, maintains or operates any office or place of business where he engages or employs persons, under any kind of contract whatsoever, to practice optometry as defined in this Act, shall be deemed to be practicing optometry himself and shall be required to be duly licensed to practice optometry as defined in this Act and shall be subject to all of the provisions of this Chapter, even though the person or persons so employed or engaged by him shall be duly licensed to practice optometry, as defined in this Act."

Sec. 12. That Article 4566-1, Chapter 10, Title 71 of the Revised Civil Statutes of Texas, 1925, be repealed in its entirety.

Sec. 13. All laws or parts of laws in conflict with this Act shall be repealed.

Sec. 14. If any Article, Section, Subsection, sentence, clause or phrase of this Act is, for any reason, held to be unconstitutional, such decision shall not affect the validity of any remaining portions of this Act. The

Legislature hereby declares that it would have passed this Act, and each Section, Subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more Sections, Subsections, sentences, clauses or phrases thereof are declared unconstitutional.

Sec. 15. The fact that the existing law does not provide an adequate method of regulation and enforcement of the provisions of this Act, and that there is inadequate protection of the public health and the public welfare, and the further fact that the calendars of the Senate and the House are now in a crowded condition, create an emergency and an imperative public necessity that the Constitutional Rule requiring that bills be read on three separate days in each House be, and the same is hereby suspended, and that this Act shall take effect and be in force from and after its passage, and it is so enacted.

On motion of Senator Lemens, the report was adopted.

#### Record of Vote

Senator Sulak asked to be recorded as voting "nay" on the report.

#### Conference Committee on House Bill 1061

Senator Van Zandt called up from the President's table, for consideration at this time, the request of the House for a Conference Committee on H. B. No. 1061.

Senator Van Zandt moved that the request of the House be granted.

The motion prevailed.

Accordingly, the President Pro Tempore appointed the following conferees on the bill on the part of the Senate: Senators Van Zandt, Vick, Kelley, Stone and Lemens.

#### Bills and Resolutions Signed

The President Pro Tempore signed in the presence of the Senate, after their captions had been read, the following enrolled bills and resolutions:

S. B. No. 336, A bill to be entitled "An Act to provide that the Texas Prison Board shall maintain schools in all of the penitentiaries and penitentiary farms of the State of Texas, providing for compulsory attendance of illiterates, a program of academic and vocational education, and hours of attendance; providing that the

State Superintendent of Public Instruction shall supply text books; and declaring an emergency."

S. B. No. 379, A bill to be entitled "An Act regulating commissions and renewal contracts of agents with life insurance companies doing business in Texas whose books and records are not located in Texas; providing that commissions and renewal contracts are non-forfeitable by insuror; providing for liability for insuror in certain cases; and declaring an emergency."

S. B. No. 429, A bill to be entitled "An Act relating to marks and brands of livestock in Victoria County only; amending Article 6899 of the Revised Civil Statutes of Texas, by adding thereto a new Section to be known as Article 6899d requiring that in said county each owner of any livestock mentioned in Chapter 1, of Title 121 of the Revised Civil Statutes of Texas, of 1925, shall within six (6) months after this Act takes effect, have his mark and brand for such stock recorded at the office of the county clerk of said county; and providing that such owners shall so record such marks and brands whether heretofore recorded or not and that after the expiration of six (6) months from taking effect of this Act all records and marks and brands now in existence shall no longer have any force or effect and that after the expiration of six (6) months only the records made after this Act shall be effective and considered the recorded marks and brands in said county; and further providing that the county clerk of said county shall publish this Act in some newspaper in general circulation in the county for a period of thirty (30) days; and declaring an emergency."

S. C. R. No. 71, Authorizing A. T. Mast to sue the State.

S. C. R. No. 72, Authorizing A. T. Mast and H. R. Mast to sue the State.

H. B. No. 161, A bill to be entitled "An Act to amend subdivision 90 of Article 199 of the Revised Statutes of the State of Texas, 1925, so as to change the time and terms of holding the terms of the District Court of Stephens County, providing that Stephens and Young Counties shall constitute the 90th Judicial District, fixing the terms and time for holding court in Stephens and Young Counties, prescribing the powers and duties of the 90th Dis-

trict Court, and providing for the transfer of cases from the 30th Judicial District Court to the 90th Judicial District of Young County, and from the 90th District Court in Young County to the 30th District Court in Young County, providing for District Clerks in Stephens and Young Counties, and their successors in office to be clerks of said 30th District Court and 90th District Court in their respective counties, validating all processes, bonds and writs issued and served before the taking effect of this Act, including recognizances and bonds, and making them returnable to the next terms of court in said counties and district fixed herein, to validate the summoning of grand and petit juries under the present law so as to render them available in said counties under the Act, providing that if any Section of this Act be held unconstitutional or invalid for any reason the same shall not impair or affect the remaining Sections or provisions; and declaring an emergency."

H. B. No. 312, A bill to be entitled "An Act amending Article 2843 of the Revised Civil Statutes (1925), of the State of Texas providing for a uniform free text book system; and declaring an emergency."

H. B. No. 376, A bill to be entitled "An Act making appropriation of certain sums of money, or so much thereof as may be necessary, out of the General Revenue Fund to pay taxes due by the State to certain independent school districts and a common school district; and declaring an emergency."

H. B. No. 414, A bill to be entitled "An Act amending Section 1 of Chapter 58 of the General Laws of the Forty-second Legislature, Regular Session, as amended by Chapter 97 of the General Laws of the Forty-third Legislature, Regular Session; and declaring an emergency."

H. B. No. 670, A bill to be entitled "An Act to establish and maintain an Agricultural Experiment Station for the development of dairy, poultry and truck crops in the Thirty-fifth District of Texas, authorizing the Board of Directors of the Agricultural and Mechanical College of Texas to select a suitable location for said station and empowering said Board of Directors to establish and maintain the same; to accept donations of land, water and money for

establishing said station and for the operation of same; and declaring an emergency."

H. B. No. 678, A bill to be entitled "An Act requiring the Comptroller of Public Accounts to collect all State Occupation Taxes; repealing all laws in conflict therewith."

H. B. No. 739, A bill to be entitled "An Act authorizing and directing the Attorney General of Texas to make such investigation and to institute and prosecute such legal proceedings or suits, or take such other action as he deems proper to protect the interest of the State of Texas in and to the waters of the Pecos River; providing for the appointment of a member of the State Board of Water Engineers as Compact Commissioner, upon request of the Attorney General, to negotiate an agreement with representatives of the State of New Mexico and the United States of America concerning the storage, division and use of the waters of the Pecos River in New Mexico and Texas; and declaring an emergency."

H. B. No. 740, A bill to be entitled "An Act making an appropriation to be paid out of the General Revenue Fund of the State of Texas, in the sum of One Thousand, One Hundred Sixty-seven and 18/100 (\$1,167.18) Dollars, not otherwise appropriated, to cover taxes due by the State of Texas to Walker County, covering the years 1932, 1939 and 1940, inclusive; and declaring an emergency."

H. B. No. 845, A bill to be entitled "An Act to amend Article 2465, Revised Civil Statutes of 1925, as amended by Acts of the Forty-first Legislature, Regular Session, 1929, Chapter 17, page 46, Section 1, as amended by Acts of the Forty-first Legislature, Second Called Session, page 168, Chapter 85, Section 1, providing for books and records to be kept by credit unions, for supervision and examination of credit unions by some competent person or persons designated by the State Banking Commissioner, by one or more credit union examiners appointed by the Banking Commissioner, or by certain employees of the Banking Department; and providing for salaries and expense accounts for such person or persons; fixing maximum fees to be charged for such services and a method for handling such moneys col-

lected from the credit unions; and declaring an emergency."

H. B. No. 1038, A bill to be entitled "An Act providing for a closed season on wild deer and wild turkey in Upshur and Camp Counties for a period of five (5) years; prescribing penalties for the violation of this Act; repealing all laws in conflict; and declaring an emergency."

H. B. No. 1081, A bill to be entitled "An Act to prohibit the use of a seine or net for taking fish in Brown County except a minnow seine not more than twenty (20) feet in length when used for the purpose of taking minnows for bait; prohibiting the use of a seine or net for any purpose in the waters of Lake Brownwood; providing a penalty; repealing all laws in conflict; and declaring an emergency."

H. B. No. 1082, A bill to be entitled "An Act to amend H. B. No. 146, Acts of the Forty-seventh Legislature of Texas, authorizing the Commissioners Court in all counties in the State of Texas to appropriate from the General Fund not more than five-cents (5c) on the One Hundred (\$100) Dollars assessed valuation, for the purpose of advertising and promoting the growth and development of the counties; and providing for an election; and declaring an emergency."

H. B. No. 1085, A bill to be entitled "An Act creating a Consolidated Road District No. 3 of Tyler County, Texas, under authority of Article 3, Section 52 of the Constitution of Texas, for the purpose of fully and fairly compensating original road districts Nos. 3 and 4 of said county in amounts equal to the respective amounts of road bonds outstanding against such included road districts respectively, and for the purpose of the purchase and construction of district roads therein, and for the purpose of the further construction, maintenance, and operation of macadamized, graveled, or paved roads and turnpikes, or in aid thereof when authorized by a two-thirds majority vote of the qualified property taxpaying voters of said district, voting at an election for that purpose; making said road district a body corporate and taxing district under authority of Article 3, Section 52 of the Constitution of

Texas, and providing that said consolidated road district shall have authority and be vested by the General Laws of Texas for such districts; describing the territory comprising such district, and reciting that it contains all of original road districts Nos. 3 and 4 of said county, and overlaps a portion of original road district No. 2 of said county, and providing that it shall not interfere in any manner with said road district No. 2 in levying, assessing and collecting ad valorem taxes in payment of bonds of said road district No. 2; providing it shall have authority to issue bonds and levy ad valorem taxes in payment thereof as provided by the General Laws enacted under the provisions of Article 3, Section 52 of the Constitution of Texas; and declaring an emergency."

H. B. No. 1091, A bill to be entitled "An Act to amend Article 6377 of the Revised Civil Statutes of Texas, 1925, which regulates the equipment in passenger trains; this amendment providing that the provisions of Article 6377 of the Revised Civil Statutes of Texas, 1925, shall not be applicable where railroad trains are carrying only personnel and equipment in connection with military or naval movements; repealing all laws in conflict; and declaring an emergency."

H. C. R. No. 231, To provide that S. B. No. 221, heretofore enacted, shall take effect immediately.

H. C. R. No. 255, Suspending Joint Rules to permit the House to take up H. B. No. 161 on June 19, 1941.

H. C. R. No. 259, Instructing Enrolling Clerk of House to make certain changes in H. B. No. 1038.

H. C. R. No. 261, Instructing the Enrolling Clerk to make certain corrections in H. B. No. 161.

#### Report of Conference Committee on House Bill 1061

Senator Van Zandt submitted at this time the following report:

Austin, Texas,

Hon. Coke R. Stevenson, President of the Senate.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sirs: We, your Conference Committee appointed to adjust the differences between the Senate and the House on H. B. No. 1061 have had the same under consideration, and beg leave to report it back to the Senate

and House with the recommendation that said bill be adopted in the form attached hereto.

Respectfully submitted,

VAN ZANDT,  
VICK,  
KELLEY,  
STONE,  
LANNING,

On the part of the Senate;

RIDGEWAY,  
BROWN,  
HOYO,  
McGLASSON,  
STINSON,

On the part of the House.

H. B. No. 1061, A bill to be entitled "An Act to amend Section 1 of S. B. No. 41, Acts of the Forty-second Legislature, Regular Session, approved May 5, 1931, being an Act defining Group Life Insurance; providing that no policy of Group Life Insurance shall be issued or delivered unless and until a copy of the form thereof has been filed with the Life Insurance Commissioner and formally approved by him stipulating the provisions which must be contained in such policy; providing the manner of paying the proceeds of any such insurance; providing the method of computing the reserves on such policies; prohibiting the issuance of any contract of Life Insurance covering a group except as provided by the provisions of the Act; and declaring an emergency."

Be It Enacted by the Legislature of the State of Texas:

Section 1. That Section 1 of S. B. No. 41, Acts of the Forty-second Legislature, Regular Session, approved May 5, 1931, being an Act defining Group Life Insurance be, and the same is hereby amended so that the same as so amended, shall hereafter read as follows:

"Section 1. The following forms of life insurance are hereby declared to be Group Life Insurance within the meaning of this Act:

(1) Life insurance covering not less than twenty-five employees written under a policy issued to the employer, the premium for which is to be paid by the employer or by the employer and employees jointly and insuring all of his employees, or all of any class or classes thereof determined by conditions pertaining to the employment, for amounts of insur-

ance based upon some plan which will preclude individual selection, and for the benefit of persons other than the employer; provided, however, that when the premium is to be paid by the employer and employees jointly and the benefits of the policy are offered to all eligible employees, not less than seventy-five per centum of such employees may be so insured.

(2) Life insurance covering the members of any labor union who are actively engaged in the same occupation written under a policy issued to such labor union, which shall be deemed to be an employer and the members of which shall be deemed to be employees of such union within the meaning of this Act.

(3) Life insurance covering only the lives of all members of a group of persons for not more than \$10,000 on any one life, numbering not less than one hundred new entrants to the group yearly, who become borrowers from one financial institution, or who become purchasers of securities, merchandise, or other property from one vendor under agreement to repay the sum borrowed, or to pay the balance of the price of the securities, merchandise, or other property purchased in installments over a period of not more than ten years to the extent of their indebtedness to said financial institution or vendor, but not to exceed \$10,000 on any one life, written under a policy which may be issued upon the application of and made payable to the financial institution or vendor or other creditor to whom such vendor may have transferred title to the indebtedness as beneficiary the premium on such policy to be payable by the financial institution, vendor, or other creditor. Provided, that group life insurance issued under this classification shall not include annuities or endowment insurance. The requirements set out in Subsection Four (4) of Section Two (2) of this Act shall not apply to this Subsection.

Sec. 2. The fact that the law as now in force prevents many Texas companies from competing with out of State insurance companies and thereby is causing a hardship to said Texas companies, creates an emergency and an imperative public necessity authorizing the suspension of the Constitutional Rule requiring bills to be read on three several days be, and

the same is hereby suspended, and that this Act shall take effect from and after its passage, and it is so enacted.

Senator Van Zandt moved that the report be adopted.

The motion prevailed by the following vote:

Yeas—22

Beck	Martin
Chadick	Mauritz
Cotten	Metcalf
Fain	Moore
Formby	Stone
Graves	Sulak
Hazlewood	Van Zandt
Hill	Vick
Kelley	Weinert
Lanning	Winfield
Lovelady	York

Nays—2

Aikin	Isbell
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Absent

Brownlee	Moffett
Lemens	Ramsey

Absent—Excused

Shivers	Spears
Smith	

#### Motion to Take up House Bill 1011

Senator Metcalfe moved that the regular order of business be suspended to permit consideration of H. B. No. 1011 at this time.

Senator Chadick moved the previous question on the motion to suspend the regular order of business, and the motion was duly seconded.

The Senate refused to order the main question at this time by the following vote:

Yeas—11

Brownlee	Lanning
Chadick	Lemens
Formby	Mauritz
Graves	Metcalf
Hazlewood	Stone
Kelley	

Nays—14

Aikin	Ramsey
Beck	Sulak
Cotten	Van Zandt
Fain	Vick
Isbell	Weinert
Lovelady	Winfield
Martin	York

## Absent

Hill                      Moore  
Moffett

## Absent—Excused

Shivers                      Spears  
Smith

Question—Shall the motion to suspend the regular order of business prevail?

## Request to Take up House Bill 611

Pending consideration of the motion of Senator Metcalfe to suspend the regular order of business, Senator Vick asked unanimous consent to move that the regular order of business be suspended to take up H. B. No. 611, on its second reading and passage to third reading.

The President Pro Tempore announced there was objection to the request.

## Adjournment

On motion of Senator Weinert, the Senate, at 11:20 o'clock a. m., adjourned until 10:00 o'clock a. m. Thursday, June 26, 1941.

## APPENDIX

## Communication from Mr. F. R. Torralba

EDITORIAL ATLANTIDA S. A.  
Dirreccion General Y Talleres,  
Azopordo Y Mexico,  
Buenos Aires, May 19, 1941.

Mr. F. R. Torralba greets Mr. Bob Barker, Secretary of Senate of Texas, most affectionately, and in acknowledgment of your kind note of the 23rd of April, wishes to state that he appreciates the valuable information tendered to him, and wishes to inform you that on that same date he directed correspondence to the members of the Committee on Education. With this in mind he puts himself at your orders in any thing you might need in this country, assuring him that he considers him a special and affectionate friend.

## EIGHTY-SECOND DAY

(Thursday, June 26, 1941)

The Senate met at 10:00 o'clock a. m., pursuant to adjournment, and was called to order by President Pro Tempore Cotten.

The roll was called, and the following Senators were present:

Aikin	Lovelady
Beck	Mauritz
Brownlee	Metcalfe
Chadick	Moffett
Cotten	Moore
Fain	Ramsey
Formby	Stone
Graves	Sulak
Hazlewood	Van Zandt
Isbell	Vick
Kelley	Weinert
Lanning	York

## Absent—Excused

Hill	Smith
Lemens	Spears
Martin	Winfield
Shivers	

A quorum was announced present.

Rev. S. B. Culpepper, Chaplain, offered prayer, as follows:

"Our Heavenly Father, we bring before Thee all the problems that our hearts know, all the joys and all the sorrows, all the heartaches, and all the rejoicings. We bring them through Jesus Christ, the Mighty One. Thou art so great and we are so small; Thou art so mighty and we are so insignificantly weak. We know not what to do with our problem, but Thou knowest all. Thou understandest our thoughts afar off. Thou knowest our downittings, and our uprisings and art acquainted with all our ways. Such knowledge is too wonderful for us. It is so high we can not reach it; it is so deep we can not plumb the depths of it. To such a God, we come today with our cares and our loved ones who may be sick. Especially, we bring our Lieutenant Governor's wife, Mrs. Coke Stevenson, to that the same gentle Jesus, at Whose words, fever sped away, in response to Whose voice, the deaf heard, the dumb talked, the dead walked out of their graves; at Whose touch sickness departed, the lame walked, the blind saw. To Him, we bring this gracious woman today, praying, that if it is Thy will, she may be restored to her health—and that she and her family may have peace